



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**JOHN WEIS**  
Chair

**ROBERT J. BENFATTO, JR., ESQ.**  
District Manager

June 24, 2011

Mathew Wambua  
Commissioner  
Dept. of Housing Preservation and Development  
100 Gold Street  
New York, NY 10038

**Re: The Windermere  
400-406 West 57<sup>th</sup> Street  
Clinton Cure for Harassment  
Lower Income Housing Plan**

Dear Commissioner Wambua:

Manhattan Community Board 4's (CB4) Clinton/Hell's Kitchen Land Use (C/HKLU) Committee, received an update regarding the proposed Clinton Special District required Cure for Harassment ("Clinton Cure") for the Windermere project from Councilmember Gale Brewer and David Gillcrist, Executive Director of Project Find at its May 11, 2011 meeting. As you may know, the Windermere is located at 400-406 West 57<sup>th</sup> Street and has a long and violent history of tenant harassment by its former owners and managers. As a result of that harassment, any alteration of the Windermere is subject to the Clinton Cure which requires the greater of 28% of the floor area of the current building or 20% of the floor area of the building to be constructed to be developed as permanently affordable low income housing. CB4 has been working with Councilmember Brewer and Project Find, the originally proposed not-for-profit Administering Agent, to ensure this required permanently affordable housing be built on-site and with an appropriate design. CB4 is looking forward to working with the developer but has continuing concerns regarding the affordable housing to be built and wishes to address the basic parameters of its design.

**History of the Windermere**

When the Windermere, New York City's first elevator apartment house, was built in 1881 it was regarded as a major architectural advance. Some years later it housed a pioneer residence for single working women. In the 1970's, some floors were converted from large apartments to Single Room Occupancy (SRO) units and smaller apartments, but it was still well run. By the 1980's it was in serious disrepair and the subject of violent tenant harassment such as apartment doors being cement blocked with the tenants' belongings inside and managers issuing death threats and moving prostitutes into the

building. Eventually the owners and managers of the Windermere were indicted by former District Attorney Robert M. Morgenthau, convicted of felonies for this harassment and jailed..

Toa Construction Corporation (“Toa”), a Japanese company, bought the Windermere in 1986 and owned it until 2009. However, Toa was never able to successfully develop the site and problems with services for the tenants persisted. The building was made a City Landmark in June 2005. In 2008, a judgment was entered against Toa for willful neglect of a landmark for failing to maintain the building. By May of 2009 the Windermere was housing only five tenants. After a second vacate order by the New York City Fire Department, the remaining five tenants came to a legal settlement with Toa and left the building. In 2009, Mark Tress of Windermere Properties LLC (“WP LLC”) purchased the Windermere from Toa.

### **Clinton Cure for Harassment**

Due to a history of harassment, the owner of the Windermere is legally obligated to develop the property in compliance with the Clinton Cure for Harassment, irrespective of the legal settlement with the remaining tenants. The Clinton Cure requires 28% of the floor area of the current building (or 20 % of the floor area of the building to be developed, whichever is greater) to be developed as permanent low income housing. The current floor area of the Windermere is approximately 85,000 square feet; the Clinton Cure will amount to approximately 24,000 square feet. The low income housing must be built on-site with a Department of Housing Preservation and Development (HPD)- approved Administering Agent. An additional provision of the Preservation Area of the Special Clinton District requires 20% of the units to be two bedrooms or larger.

### **Clinton Cure Redevelopment**

In July 2009 WP LLC, having recently purchased the Windermere from Toa, approached Councilmember Brewer and Project Find, a local non-profit, to better understand how to develop the property with the permanent low income housing required by the Clinton Cure. The proposed renovation of the Windermere would be a complete gut renovation with only exterior masonry left in place creating a blank slate for any intended use. As the project proceeded, WP LLC decided to convert the Windermere, except for the required Clinton Cure, into a boutique hotel. Given the mix of commercial and residential uses in the same building, the initial proposal was to create two separate entrances; one for the residential portion created by the Clinton Cure and one for the commercial hotel.

During the design phase, preliminary plans were drafted and reviewed by all parties. A constant theme of the design discussions was proposals by WP LLC to use facilities of the Clinton Cure residential portion to service the hotel. Although the hotel had two elevators of its own, one proposal was to use the Clinton Cure residential passenger elevator as the hotel’s service elevator, in order to transport hotel garbage and laundry. WP LLC subsequently proposed adding an event space at the roof level, to be accessed via the Clinton Cure residential elevator. Additionally, proposed plans were not compliant with the Americans with Disabilities Act (ADA).

A preliminary review by HPD’s Division of Architecture, Construction and Engineering (DACE) required separation of the residential and commercial spaces and ADA compliance.

Despite a serious and diligent effort with the help of Councilmember Brewer, Project Find and WP LLC could not reach an agreement over the functionality and operation of the Clinton Cure residential portion of the building and Project Find decided not to continue with the project.

WP LLC has since approached the Metropolitan Council on Jewish Poverty (MCJP) to become Administering Agent for the Clinton Cure. The MCJP has an excellent reputation as a developer of senior housing in the city. CB4 is pleased it is considering becoming a part of the project team and looks forward to working with them.

### **CB4's Requirements**

Given the long and difficult history of the Windermere, CB4 wants to enumerate certain concerns in order to lay out the basic design parameters necessary for any future successful Clinton Cure. CB4 believes this project can come to fruition in the next few years. In order to ensure the building meets the Clinton Cure and is designed to include quality permanently affordable housing CB4 requests that HPD require the minimum design parameters listed below:

- **Clinton Cure Low income housing must be physically and operationally separate from the hotel**
  - The low income housing must have its own dedicated entrance and elevator, entirely separate from the hotel or event space uses.
- **The building must be ADA accessible**
  - All portions of the Clinton Cure space should meet at least the minimum required ADA accessibility and adaptability standards.
- **20% Two Bedroom Requirement**
  - As the Windermere is located within the Preservation Area of the Special Clinton District, the requirement that 20% of new units be two bedrooms or larger applies and must be enforced.
- **If there is an event space, it must be adequately soundproofed**
  - If a roof top event space is part of the development, there must be acoustical soundproofing and physical isolation to ensure both internal and external soundproofing of the event space in order to ensure the peace and quiet enjoyment of the residential tenants and the surrounding neighbors.
- **Autonomous Non-Profit**
  - Given the long history of tenant harassment at the Windermere, the non-profit Administering Agent's role should include not only fulfilling the requirements for tenant selection and income certification, but also physical and property management control of the residential Clinton Cure portion of the building.
- **Landmarks Commission approval**
  - All exterior construction must be consistent with the requirements of the Landmarks Preservation Commission, since according to law the Commission must approve any changes to the exterior appearance of a landmark before work is begun. Since the building is to be gutted, particular care will be required to maintain the historic integrity of the building.

***Note: Consistency of font and bullets and numbering should be established from line 104 down to line 145 and this note removed. The only other changes are at lines 36-7.***

***The letter should be checked with Joe's office.***

***ESK***

CB4 looks forward to working with both the developer and the non-profit Administering Agent as negotiations proceed to assist in moving the renovation of the Windermere ahead. While the discussions over the Clinton Cure have been lengthy and CB4 does have continuing concerns about the affordable housing component, CB4 nevertheless believes that a successful renovation can proceed at the Windermere.

Sincerely,



John Weis, Chair  
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair  
Clinton/Hell's Kitchen Land Use Committee



Joe Restuccia, Co-Chair  
Clinton/Hell's Kitchen Land Use Committee

Cc: Christine Quinn – Speaker City Council  
Gale Brewer – City Council  
Matthew Shafit – General Counsel/Deputy Commissioner of Legal Affairs, HPD  
Deborah Rand – Assistant Commissioner for Housing Litigation, HPD  
RuthAnne Visnauskas – Deputy Commissioner of Development, HPD  
Robert B. Tierney – Chair, NYC Landmarks Preservation Commission  
Mark A. Silberman – General Counsel, NYC Landmarks Preservation Commission  
John Weiss – Deputy Counsel, NYC Landmarks Preservation Commission  
Michael A. Cardozo – Corporation Counsel, NYC Department of Law  
Virginia Waters – Assistant Corporation Counsel, NYC Department of Law  
Gabriel Taussig – Chief of the NYC Law Department  
Mark Tress – Windermere Properties LLC  
William E. Rapfogel – Metropolitan Council on Jewish Poverty